

Sub-Chapter III

LAND USE STANDARDS

10.24 GENERAL CRITERIA FOR APPROVAL OF PERMIT APPLICATIONS

In approving applications submitted to it pursuant to 12 M.R.S.A. §685-A(10) and §685-B, the Commission may impose such reasonable terms and conditions as the Commission may deem appropriate in order to satisfy the criteria of approval and purpose set forth in these statutes, rules and the Comprehensive Land Use Plan.

“The commission shall approve no application, unless:

1. Adequate technical and financial provision has been made for complying with the requirements of the State’s air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the minimum lot size laws, [12 M.R.S.A.] sections 4807 to 4807-G, the site location of development laws, 38 M.R.S.A. §481 to §490, and the natural resource protection laws, 38 M.R.S.A. §480-A to §480-Z, and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies; and
2. Adequate provision has been made for loading, parking and circulation of land, air and water traffic, in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods; and
3. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal; and
4. The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on-site; and
5. The proposal is otherwise in conformance with this chapter and the regulations, standards and plans adopted pursuant thereto.
6. In the case of an application for a structure upon any lot in a subdivision, that the subdivision has received the approval of the commission.

The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public’s health, safety and general welfare will be adequately protected. The commission shall permit the applicant to provide evidence on the economic benefits of the proposal as well as the impact of the proposal on energy resources.” 12 M.R.S.A. §685-B(4).

In addition, the applicant must demonstrate “evidence of sufficient right, title or interest in all of the property that is proposed for development or use.” 12 M.R.S.A. §685-B(2)(D).

10.25 DEVELOPMENT STANDARDS

This section contains review standards for structures and uses that require issuance of a permit from the Commission, or as otherwise required in Sub-Chapter II. Except as herein provided, development not in conformance with the standards of this section are prohibited.

Nothing in this section shall preclude the Commission from imposing additional reasonable terms and conditions in its permits as the Commission may deem appropriate in order to satisfy the criteria for approval and purposes set forth in the Commission's statutes, rules and the Comprehensive Land Use Plan.

A. REVIEW STANDARDS FOR STRUCTURES ADJACENT TO LAKES

The standards set forth below must be met for all subdivisions and commercial, industrial, and other non-residential structures and uses proposed on land adjacent to lakes. These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes.

In applying the standards set forth below, the Commission shall consider all relevant information available including the Maine Wildlands Lake Assessment Findings (Appendix C of this chapter), and relevant provisions of the Comprehensive Land Use Plan.

1. Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).
2. Water quality: The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
3. Traditional uses: The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture;
4. Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed;
5. Natural character: Adequate provision has been made to maintain the natural character of shoreland;
6. Lake management goals: The proposal is consistent with the management intent of the affected lake's classification; and
7. Landowner equity: Where future development on a lake may be limited for water quality or other reasons, proposed development on each landownership does not exceed its proportionate share of total allowable development.

B. REVIEW STANDARDS FOR SUBDISTRICTS IN PROSPECTIVELY ZONED AREAS

These standards apply only in areas that have been prospectively zoned and for all the subdistricts listed. Prospectively zoned areas are identified in Section 10.08 of these rules.

1. Dimensional Standards.

- a. Road frontage requirements. See Section 10.26,C.
- b. Building setbacks from roads. See Section 10.26,D.
- c. Lot coverage requirements. See Section 10.26,E.
- d. Structure height. See Section 10.26,F.

2. Buffering Standards. These standards complement the existing standards for clearing contained in Section 10.27,B.

- a. All principal and accessory buildings in the D-GN, D-GN2, D-GN3, D-RS, D-RS2, D-RS3, D-ES, and D-CI subdistricts shall be visually screened by a vegetative buffer made up of native trees and shrubs, except as provided in Section 10.25,B,2,c below. Wooded buffers shall be comprised of both under- and overstory material that can be either maintained using existing vegetation or established where no such buffer exists.

- b. Minimum widths for the vegetated buffer are as follows:

	Width of Vegetative Buffer (feet)							
	D-GN	D-GN2	D-GN3	D-RS	D-RS2	D-RS3	D-ES	D-CI
Roadway	25	25	25	50	50	50	75	75
Side & rear property lines	15	15	15	15	15	15	15	15
Subdistrict boundary	NA	NA	NA	NA	NA	NA	50	50

Table 10.25,B-1. Width of vegetative buffers.

The Commission may require buffer widths exceeding the minimum width, along with other screening as necessary, in order to ensure that unsightly uses such as junkyards and automobile graveyards are completely screened from view.

- c. Exceptions to the buffering requirements are allowed under the following circumstances:

- (1) Property line buffer from adjacent development that is of a similar type, use, and intensity where adjacent landowners provide written agreement that a property line buffer is not needed;
- (2) Existing development where extensive clearing already exists at the time of adoption of these rules January 1, 2001;
- (3) New development where the establishment of buffers would eliminate or interfere with existing scenic views;
- (4) In a “Main Street” setting, that is defined as an area where 80% of a street is developed with buildings, where side and rear property line buffers would interfere with pedestrian circulation or access; and
- (5) Buffer for a D-ES and D-CI subdistrict boundary where adjacent uses are compatible.

3. Building Layout in the D-GN, D-GN2, D-GN3, D-RS, and D-RS2 Subdistricts

- a. New commercial, institutional, and multi-family residential development shall be substantially similar in building height, bulk, and roof lines to neighboring development.
- b. New commercial, institutional, and multi-family residential development shall be configured to facilitate pedestrian access between adjacent sites and any nearby residential neighborhoods.
- c. The street side of commercial structures that are visible from a public road shall contain the principal windows of the structure. The structure shall be designed such that windowless walls do not face a street or road.
- d. Where new development is adjacent to existing development in a “Main Street” setting where at least 80% of a street is comprised of buildings other than parking lots, buildings must be configured so that 80% of the street frontage to be developed remains devoted to buildings, and both automobile and pedestrian access are facilitated.

C. TECHNICAL AND FINANCIAL CAPACITY

The standards set forth below must be met for all subdivisions and commercial, industrial, and other non-residential development.

1. The applicant shall retain qualified consultants, contractors and staff to design and construct proposed improvements, structures, and facilities in accordance with approved plans. In determining the applicant's technical ability, the Commission shall consider the size and scope of the proposed development, the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations or previous approvals granted to the applicant.
2. The applicant shall have adequate financial resources to construct the proposed improvements, structures, and facilities and meet the criteria of all state and federal laws and the standards of these rules. In determining the applicant's financial capacity, the Commission shall consider the cost of the proposed subdivision or development, the amount and strength of commitment by the financing entity, and, when appropriate, evidence of sufficient resources available directly from the applicant to finance the subdivision or development.

D. VEHICULAR CIRCULATION, ACCESS AND PARKING

1. **General circulation.** Provision shall be made for vehicular access to and within the project premises in such a manner as to avoid traffic congestion and safeguard against hazards to traffic and pedestrians along existing roadways and within the project area. Development shall be located and designed so that the roadways and intersections in the vicinity of the development will be able to safely and efficiently handle the traffic attributable to the development in its fully operational stage.
2. **Access management.** Access onto any roadway shall comply with all applicable Maine Department of Transportation safety standards. For subdivisions and commercial, industrial and other non-residential development, the following standards also apply:
 - a. The number and width of entrances and exits onto any roadway shall be limited to that necessary for safe entering and exiting.
 - b. Access shall be designed such that vehicles may exit the premises without backing onto any public roadway or shoulder.
 - c. Shared access shall be implemented wherever practicable.
 - d. Access between the roadway and the property shall intersect the roadway at an angle as near to 90 degrees as site conditions allow, but in no case less than 60 degrees, and shall have a curb radius of between 10 feet and 15 feet, with a preferred radius of 10 feet.
 - e. The Commission may require a traffic impact study of roadways and intersections in the vicinity of the proposed project site if the proposed development has the potential of generating significant amounts of traffic or if traffic safety or capacity deficiencies exist in the vicinity of the project site.
3. **Parking layout and design.** The following standards apply to all subdivisions and commercial, industrial and other non-residential development, except for parking areas associated with trailered ramps and hand-carry launches which are regulated under the provisions of Section 10.27,L:
 - a. Sufficient parking shall be provided to meet the parking needs of the development. The minimum number of parking spaces required shall be based on parking generation rates determined in accordance with standard engineering practices. In cases where it is demonstrated that a particular structure can be occupied or use carried out with fewer spaces than required, the Commission may reduce number of required spaces upon finding that the proposed number of spaces will meet the parking needs of the structure or use and will not cause congestion or safety problems.
 - b. Parking areas and access roads shall be designed such that runoff water is discharged to a vegetated buffer as sheet flow or alternatively collected and allowed to discharge to a concentrated flow channel, wetland or water body at a rate similar to pre-construction conditions. If runoff water is discharged to a concentrated flow channel, wetland or water body, a sediment basin shall be constructed to collect sediment before the runoff water is discharged.

- c. On-street parking. In areas where on-street parking already exists, new development shall have on-street parking where practicable and if there are sufficient spaces available in the immediate vicinity. Otherwise, parallel or diagonal on-street parking is permitted where the Commission finds that it will adequately meet the parking needs of the development and will not cause congestion or safety problems. Perpendicular on-street parking is prohibited.
- d. Off-street parking for commercial, industrial and other non-residential development.
 - (1) Where practicable, off-street parking shall be located to the side or rear of the principal structure.
 - (2) Notwithstanding the dimensional requirements of Section 10.26, the Commission may reduce the minimum road setback requirement by up to 50 percent for development utilizing on-street parking in accordance with Section 10.25,D,3,c or for development whose parking area is located to the rear of the principal structure, except where the Commission finds that such parking will cause an undue adverse impact to the natural resources or community character of the area.
 - (3) Off-street parking shall not be directly accessible from any public roadway. Ingress and egress to parking areas shall be limited to driveway entrances.
 - (4) Off-street parking areas with more than two parking spaces shall be arranged so that each space can be used without moving another vehicle.
- e. Parking spaces shall not be placed in the required roadway vegetative buffer. However, a “sight triangle” shall be maintained 25 feet in length on each side of the intersection of the driveway and the roadway right-of-way, with the third side connecting the other two sides. Within each sight triangle, no landscape plants, other than low growing shrubs, shall be planted. These shrubs must be maintained to be no more than 30 inches in height above the driveway elevation.

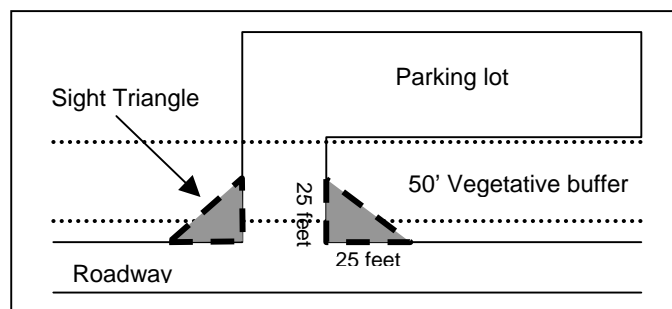


Figure 10.25,D-2. Sight triangle within a vegetative buffer.

- f. Except for sight triangles, parking areas for commercial, industrial or other non-residential development shall be visually buffered from the roadway by planting and maintaining a vegetative buffer of trees and shrubs or by locating parking areas to the rear of the principal structure.
- g. When parking areas associated with commercial, industrial or other non-residential development are adjacent to residential structures or uses, landscaping and/or architectural screens shall be used to provide an effective visual buffer and separation between property lines and the edge of the parking area.

- h. For parking areas associated with commercial, industrial or other non-residential development that are greater than one acre in size, a landscaping plan shall be developed and implemented that indicates planting locations, type and maintenance. The plan shall include the following:
 - (1) Parking areas shall have landscaped strips along the perimeter, as well as landscaped islands within the parking area.
 - (2) Expanses of parking area shall be broken up with landscaped islands that include shade trees and shrubs. Where possible, the area of ground left uncovered around the base of a tree must be at least equal to the diameter of the branch area or crown at maturity. Where not possible, adequate measures, including but not limited to soil enhancement techniques and underground irrigation, shall be used to ensure sufficient space for root growth and vegetative survival.
4. **Subdivision and development roadway design specifications.** The following standards apply to Level B and Level C road projects:
- a. Classification of roadways. The Commission shall determine which roadway classification is most appropriate for a particular project. For the purposes of Section 10.25,D,4, the following general criteria shall apply:
 - (1) **Class 1 Roadway:** Generally appropriate for most projects surrounded by a relatively compact development pattern, for high-intensity commercial or industrial projects surrounded by a relatively sparse development pattern, and for residential subdivisions with 15 or more lots surrounded by a relatively sparse development pattern.
 - (2) **Class 2 Roadway:** Generally appropriate for low-intensity commercial or industrial projects surrounded by a relatively sparse development pattern and for residential subdivisions with fewer than 15 lots surrounded by a relatively sparse development pattern.
 - (3) **Class 3 Roadway:** Generally appropriate for low-intensity, small-scale commercial projects surrounded by a relatively sparse development pattern or located on an island.
 - b. In making its determination on the appropriate roadway classification, the Commission shall consider the following factors:
 - (1) The number of lots served by the roadway or projected level of use;
 - (2) The nature of roadways accessing the project site;
 - (3) Location in relation to surrounding patterns of development;
 - (4) The level of development within the vicinity of the project;
 - (5) Natural and imposed limits on future development;
 - (6) The type and intensity of the proposed use; and
 - (7) Service by utilities or likelihood of service in the future.
 - c. Where practicable, roadways shall be designed to minimize the use of ditching, fit the natural topography of the land such that cuts and fills are minimized, and protect scenic vistas while preserving the scenic qualities of surrounding lands.

- d. Roadways in towns and plantations within the Commission's jurisdiction that are proposed to be dedicated to the town or plantation shall also comply with the town's or plantation's roadway construction and design standards. The applicant shall clearly specify the ownership of all roadways proposed to be dedicated and shall submit a maintenance plan that includes roadway construction and design standards in accordance with the Commission's standards.
- e. Roadways shall adhere to the applicable standards of Section 10.27,D and Section 10.27,H and the roadway specifications outlined in Table 10.25,D-1, below, unless the applicant utilizes site-specific best management practices and the Commission determines that proposed alternative roadway specifications will meet the needs of the development and will not cause erosion or safety problems.

	Class 1 Roadway	Class 2 Roadway	Class 3 Roadway
Minimum roadway surface width	18 ft. or 14 ft. with turnouts every 500 feet, on average.	14 ft. or 8 ft. with turnouts every 500 feet, on average.	8 ft.
Minimum base (coarse gravel)	18 in.	12 in.	As needed.
Minimum wearing surface	3 in. fine gravel or 2.5 in. bituminous concrete.	3 in. fine gravel or 2.5 in. bituminous concrete.	2" fine gravel.
Maximum sustained grade	10%	15%	15%

Table 10.25,D-1. Roadway construction specifications.

- f. Roadways that will be co-utilized for forest management purposes shall include turnouts that are large enough to accommodate wood haulers and other large vehicles.

E. SCENIC CHARACTER, NATURAL AND HISTORIC FEATURES

1. Scenic Character

- a. The design of proposed development shall take into account the scenic character of the surrounding area. Structures shall be located, designed and landscaped to reasonably minimize their visual impact on the surrounding area, particularly when viewed from existing roadways or shorelines.
- b. To the extent practicable, proposed structures and other visually intrusive development shall be placed in locations least likely to block or interrupt scenic views as seen from traveled ways, water bodies, or public property.
- c. If a site includes a ridge elevated above surrounding areas, the design of the development shall preserve the natural character of the ridgeline.

2. Natural and Historic Features

- a. **Natural Features.** If any portion of a subdivision or commercial, industrial or other non-residential project site includes critically imperiled (S1) or imperiled (S2) natural communities or plant species, the applicant shall demonstrate that there will be no undue adverse impact on the community and species the site supports and indicate appropriate measures for the preservation of the values that qualify the site for such designation.
- b. **Historic Features.** If any portion of a subdivision or commercial, industrial or other non-residential project site includes an archaeologically sensitive area or a structure listed in the National Register of Historic Places, or is considered by the Maine Historic Preservation Commission or other pertinent authority as likely to contain a significant archaeological site or structure, the applicant shall conduct archaeological surveys or submit information on the structure, as requested by the appropriate authority. If a significant archaeological site or structure is located in the project area, the applicant shall demonstrate that there will be no undue adverse impact to the archaeological site or structure, either by project design, physical or legal protection, or by appropriate archaeological excavation or mitigation.

F. NOISE AND LIGHTING

1. Noise.

- a. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial, industrial and other non-residential development shall be as established by the time period and type of land use subdistrict listed below. Sound pressure levels shall be measured at all property boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day.

Subdistrict	7:00 AM to 7:00 PM	7:00 PM to 7:00 AM
D-CI, D-MT, and D-ES	70 dB(A)	65 dB(A)
D-GN, and D-GN2	65 dB(A)	55 dB(A)
D-PD	As determined by the Commission.	
All Other Subdistricts	55 dB(A)	45 dB(A)

Table 10.25,F-1. Sound pressure level limits.

- b. The following activities are exempt from the requirements of Section 10.25,F,1,a:
 - (1) Sounds emanating from construction-related activities conducted between 7:00 A.M. and 7:00 P.M.;
 - (2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities; and
 - (3) Sounds emanating from traffic on roadways or other transportation facilities.

2. Lighting standards for exterior light levels, glare reduction, and energy conservation.

- a. All residential, commercial and industrial building exterior lighting fixtures will be full cut-off, except for incandescent lights of less than 160 watts, or any other light less than 60 watts. Full cut-off fixtures are those that project no more than 2.5% of light above the horizontal plane of the luminary's lowest part. Figure 10.25,F-1 illustrates a cut-off fixture as defined by the Illuminating Engineering Society of North America (IESNA).

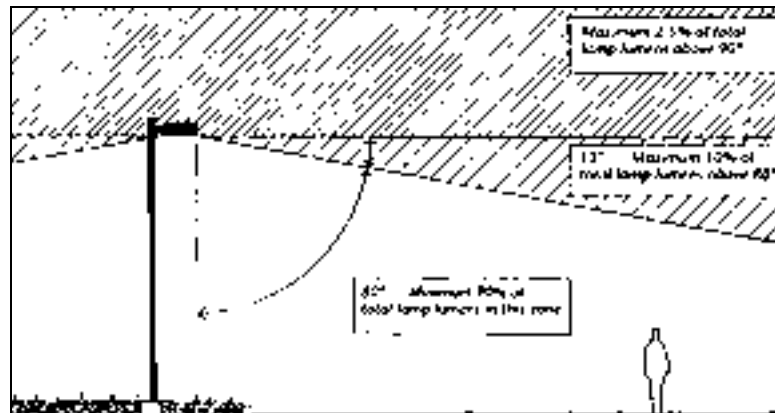


Figure 10.25,F-1. Cut-off fixture as defined by IESNA.

Light fixtures mounted on gasoline station or convenience store canopies shall be recessed so that fixtures are flush with the canopy. Alternatively, canopies may be indirectly lit using light beamed upward and then reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

- b. All exterior lighting shall be designed, located, installed and directed in such a manner as to illuminate only the target area, to the extent practicable. No activity shall produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties, onto any water bodies with a significant or outstanding scenic resource rating, or onto any roadway so as to impair the vision of the driver of any vehicle upon that roadway or to create nuisance conditions.
- c. For commercial, industrial and other non-residential development, all non-essential lighting shall be turned off after business hours, leaving only the minimal necessary lighting for site security. The term “non-essential” applies, without limitation, to display, aesthetic and parking lighting.
- d. In addition to the lighting standards in Section 10.25,F,2, lighted signs shall also comply with the standards in Section 10.27,J,4.
- e. The following activities are exempt from the lighting standards of Section 10.25,F,2,a through d:
- (1) Roadway and airport lighting;
 - (2) Temporary fair, event, or civic uses;
 - (3) Emergency lighting, provided it is temporary and is discontinued upon termination of the work;
 - (4) Lighting that is activated by motion-sensors; and
 - (5) Lighting that was in place on April 1, 2004.

G. SOIL SUITABILITY

The standards set forth below must be met for all subdivisions and commercial, industrial and other non-residential development.

1. Soil types shall be determined by a site-specific soil survey, according to the “Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping” (Maine Association of Professional Soil Scientists, 2004). The soil survey class shall be determined as follows, unless the Commission finds that a lower or higher intensity soil survey class is needed:
 - a. For level 1 subdivisions, a Class A high intensity soil survey shall be used to identify soils within the proposed building envelopes, driveway locations and other disturbed areas. A Class B soil survey may be used to identify soils elsewhere within the project area.
 - b. For level 2 subdivisions, a Class B high intensity soil survey shall be used to identify soils within the proposed building envelopes, driveway locations and other disturbed areas. A Class C soil survey may be used to identify soils elsewhere within the project area.
 - c. For new commercial, industrial and other non-residential development, a Class A high intensity soil survey shall be used to identify soils within any proposed disturbed area. A Class C soil survey may be used to identify soils elsewhere within the project area.

The Commission may waive one or more of the provisions of a Class A or B high intensity soil survey, including but not limited to the contour mapping requirement, where such provision is considered by the Commission unnecessary for its review.

2. Determination of soil suitability shall be based on the Natural Resources Conservation Service’s soils potential ratings for low density development. Soils with a low or very low development potential rating shall not be developed unless the Commission determines that adequate corrective measures will be used to overcome those limitations that resulted in a low or very low rating.
3. At least two test pits shall be dug within the boundaries of each subdivision lot proposed to be served by a combined septic system. At least one test pit shall be dug within the boundaries of each lot proposed to be served by a primitive septic system. The location of such test pits shall be shown on the subdivision plat.

H. SOLID WASTE DISPOSAL

The standards set forth below must be met for all subdivisions and commercial, industrial and other non-residential development.

1. Provision shall be made for the regular collection and disposal of site-generated solid wastes at a state-approved landfill or transfer station.
2. Provision shall be made for the legal disposal of all construction debris, stumps, brush, wood wastes, asphalt and pavement products.

I. SUBSURFACE WASTE WATER DISPOSAL

1. No permit will be issued for a project with subsurface waste water disposal unless an acceptable plan to construct the absorption area is prepared. Where waste water is to be disposed on-site by a subsurface waste water system, the system shall be designed by a licensed site evaluator or a Maine Licensed Professional Engineer, in accordance with the Subsurface Waste Water Disposal Rules.
 2. The Commission will not require a permit for conversion from primitive to combined sewage disposal systems provided a subsurface waste water disposal permit is obtained from the local plumbing inspector or the Department of Human Services, Division of Health Engineering, and provided there are no limitations on combined sewage disposal systems established by prior permit conditions. Otherwise, a permit from the Commission is required.
 3. Where waste water is to be collected and treated off-site by a municipal or quasi-municipal sewage treatment facility, the applicant shall demonstrate that there is adequate capacity in the collection and treatment systems to ensure satisfactory treatment, the facility is fully licensed by the Maine Department of Environmental Protection, and the facility agrees to accept these wastes.
 4. When private central or clustered waste water disposal systems are proposed, adequate provision shall be made for ongoing maintenance and repair of the system and for reserving an area adequate for a future replacement system, in accordance with the Maine Subsurface Waste Water Disposal Rules.
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J. WATER SUPPLY

1. Individual wells shall be sited and constructed to prevent infiltration of surface water and contamination from subsurface waste water disposal systems and other known sources of potential contamination.
2. Site design shall allow for placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal in compliance with the Maine Subsurface Waste Water Disposal Rules.
3. Proposed activities involving sources of potential contamination, including junkyards, automobile graveyards, gas stations, and bulk storage of petroleum products, must be located at least 300 feet from existing private and public water supplies.
4. For subdivisions and commercial, industrial and other non-residential development, the applicant shall demonstrate that there is sufficient healthful water supply to serve the needs of the project.
5. When a project is to be served by a public water system, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Department of Human Services Rules Relating to Drinking Water (10-144A C.M.R. 231).

K. SURFACE WATER QUALITY

1. A development, or reasonably foreseeable consequences of a development, shall not directly discharge any water pollutants to a surface water body which cause the surface water body to fail to meet its state classification (38 M.R.S.A. §464 et seq.); which impart toxicity and cause a surface water body to be unsuitable for the existing and designated uses of the water body; or which otherwise would result in a violation of state or federal water quality laws.
 2. Appropriate best management practices of point and nonpoint sources of water pollutants shall be utilized, unless the Commission determines that alternative specifications will meet the needs of the activity and will cause no undue adverse impact to the surface water quality of the affected surface water body.
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L. PHOSPHORUS CONTROL

1. The standards set forth below must be met for:

- a. Subdivisions located within the direct watershed of a body of standing water 10 acres or greater in size; and
- b. Commercial, industrial or other non-residential development that creates a disturbed area of one acre or more within the direct watershed of a body of standing water 10 acres or greater in size.

2. General Standards.

- a. Provision shall be made to limit the export of phosphorus from the site following completion of the development or subdivision so that the project will not exceed the allowable per-acre phosphorus allocation for the water body, determined by the Commission according to “Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development” (Maine Department of Environmental Protection, 1992), and hereafter cited as the Phosphorus Control Guide.
- b. The phosphorus impact of a proposed subdivision or development on a water body shall be calculated using the Standard Method for Calculating Phosphorus Export, according to the procedures in the Phosphorus Control Guide.

3. Design and Maintenance Standards.

- a. Phosphorus control measures and their maintenance shall meet the design criteria contained in the Phosphorus Control Guide.
- b. High maintenance structural measures, such as wet ponds and runoff infiltration systems, shall not be used unless:

- (1) Other measures, such as increasing the width of vegetated buffers, greater limits on clearing, reducing road lengths, and clustering of lots to achieve less disturbed area are clearly demonstrated to be insufficient to allow the proposed subdivision to meet the standards of this section; and
- (2) The Commission finds that the applicant has the technical and financial capabilities to properly design, construct, and provide for the long-term inspection and maintenance of the facility in accordance with the procedures in the Phosphorus Control Guide.

M. EROSION AND SEDIMENTATION CONTROL

The standards set forth below must be met for all development that involves filling, grading, excavation or other similar activities which result in unstabilized soil conditions.

1. General Standards.

- a. Soil disturbance shall be kept to a practicable minimum. Development shall be accomplished in such a manner that the smallest area of soil is exposed for the shortest amount of time possible. Operations that result in soil disturbance shall be avoided or minimized in sensitive areas such as slopes exceeding 15% and areas that drain directly into water bodies, drainage systems, water crossings, or wetlands. If soil disturbance is unavoidable, it shall occur only if best management practices or other soil stabilization practices equally effective in overcoming the limitations of the site are implemented.
- b. Whenever sedimentation is caused by stripping of vegetation, regrading, or other construction-related activities, sediment shall be removed from runoff water before it leaves the site so that sediment does not enter water bodies, drainage systems, water crossings, wetlands, or adjacent properties.
- c. Soil disturbance shall be avoided or minimized when the ground is frozen or saturated. If soil disturbance during such times is unavoidable, additional measures shall be implemented to effectively stabilize disturbed areas, in accordance with an approved erosion and sedimentation control plan.

2. Design Standards.

- a. Permanent and temporary erosion and sedimentation control measures shall meet the standards and specifications of the “Maine Erosion and Sediment Control BMP Manual” (Department of Environmental Protection, March 2003) or other equally effective practices. Areas of disturbed soil shall be stabilized according to the “Guidelines for Vegetative Stabilization” (Appendix B of this chapter) or by alternative measures that are equally effective in stabilizing disturbed areas.
- b. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all sedimentation control devices have been installed and stabilized.
- c. Existing catch basins and culverts on or adjacent to the site shall be protected from sediment by the use of hay bale check dams, silt fences or other effective sedimentation control measures.

- d. If streams will be crossed, special measures shall be undertaken to protect the stream, as set forth in Section 10.27,D.
- e. Topsoil shall not be removed from the site except for that necessary for the construction of roads, parking areas, building excavations and other construction-related activities. Topsoil shall be stockpiled at least 100 feet from any water body.
- f. Effective, temporary stabilization of all disturbed and stockpiled soil shall be completed at the end of each workday.
- g. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.
- h. All temporary sedimentation and erosion control measures shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been implemented.

3. Erosion and Sedimentation Control Plan.

- a. For development that occurs when the ground is frozen or saturated or that creates a disturbed area of one acre or more, the applicant must submit an erosion and sedimentation control plan for Commission approval in accordance with the requirements of Section 10.25,M,3,b,(2).
- b. A Commission approved erosion and sedimentation control plan in conformance with these standards shall be implemented throughout the course of the project, including site preparation, construction, cleanup, and final site stabilization. The erosion and sedimentation control plan shall include the following:
 - (1) For activities that create a disturbed area of less than one acre:
 - (a) A drawing illustrating general land cover, general slope and other important natural features such as drainage ditches and water bodies.
 - (b) A sequence of construction of the development site, including clearing, grading, construction, and landscaping.
 - (c) A general description of all temporary and permanent control measures.
 - (d) Provisions for the continued maintenance of all control devices or measures.
 - (2) For activities that create a disturbed area of one acre or more:
 - (a) A site plan identifying vegetation type and location, slopes, and other natural features such as streams, gullies, berms, and drainage ditches. Depending on the type of disturbance and the size and location of the disturbed area, the Commission may require a high intensity soil survey covering all or portions of the disturbed area.
 - (b) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

- (c) A detailed description of all temporary and permanent erosion and sedimentation control measures, including, without limitation, seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
- (d) Provisions for the continued maintenance and inspection of erosion and sedimentation control devices or measures, including estimates of the cost of maintenance and plans for meeting those expenses, and inspection schedules.

4. **Inspection.**

- a. For subdivisions and commercial, industrial or other non-residential development that occurs when the ground is frozen or saturated or that creates a disturbed area of one acre or more, provision shall be made for the inspection of project facilities, in accordance with Section 10.25,M,4,a,(1) or (2) below:
 - (1) The applicant shall hire a contractor certified in erosion control practices by the Maine Department of Environmental Protection to install all control measures and conduct follow-up inspections; or
 - (2) the applicant shall hire a Maine Registered Professional Engineer to conduct follow-up inspections.
- b. The purpose of such inspections shall be to determine the effectiveness of the erosion and sedimentation control plan and the need for additional control measures.
- c. Inspections shall be conducted in accordance with a Commission approved erosion and sedimentation control plan and the following requirements.
 - (1) Inspections shall be conducted at least once a week and after each rainfall event accumulating more than ½ inch of precipitation, until all permanent control measures have been effectively implemented. Inspections shall also be conducted (a) at the start of construction or land-disturbing activity, (b) during the installation of sedimentation and erosion control measures, and (c) at the completion of final grading or close of the construction season.
 - (2) All inspections shall be documented in writing and made available to the Commission upon request. Such documentation shall be retained by the applicant for at least six months after all permanent control measures have been effectively implemented.
- d. Notwithstanding Section 10.25,M,4,a, development may be exempt from inspection if the Commission finds that an alternative, equally effective method will be used to determine the overall effectiveness of the erosion and sedimentation control measures.

N. GROUNDWATER QUALITY

The standards set forth below must be met for all subdivisions and commercial, industrial and other non-residential development.

1. The development shall not pose an unreasonable risk that a discharge of pollutants to a groundwater aquifer will occur.
 2. The project shall not result in the groundwater quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S.A. §601. If the pre-development groundwater quality is inferior to the Maine State Drinking Water Regulations, the development shall not degrade the water quality any further.
-

O. AIR QUALITY

Commercial, industrial and other non-residential development (including but not limited to solid waste disposal facilities, crematories, wood products manufacturing, pulp and paper mills, rock crushing operations, and asphalt batch plants) must comply with all State and Federal air quality laws and standards.

P. WETLAND ALTERATIONS

The following requirements apply to wetland alterations for Uses Requiring a Permit and Special Exceptions in Section 10.23,N,3. Except as hereinafter provided, wetland alterations not in conformance with the standards of this section are prohibited.

1. Procedural Requirements

a. Transition.

P-WL subdistricts identified on the Commission's Land Use Guidance Maps that were adopted prior to the adoption of this section will be regulated according to standards applying to wetlands of special significance (P-WL1 subdistrict), as defined herein, until the Commission adopts amended Land Use Guidance Maps pursuant to this section, unless the applicant demonstrates, through delineation or other means acceptable to the Commission, that the P-WL is not a wetland of special significance.

b. Area of Project Alteration.

- (1) If a proposed activity requires a permit and will alter 15,000 or more square feet of wetland area, or 1 acre or more of overall land area, the applicant must delineate on the ground and in a site plan all wetlands within the general project area using methods described in the "Corps of Engineers Wetlands Delineation Manual" (1987).

- (2) If a proposed activity requires a permit and will alter 500 or more square feet of a P-WL1 wetland or 20,000 or more square feet of a P-WL2 or P-WL3 wetland, the Commission may require, as a condition of approval, mitigation, including compensation, as provided in the Commission's General Land Use Standards in Section 10.25,P,2.
- (3) In determining the area of wetland alteration or overall land alteration, all components of a proposed activity, including all phases of a multiphased project, are treated together as constituting one single and complete project.

c. Level of Permit Review.

The level of permit review required depends upon the size of the proposed wetland alteration and the P-WL subdistrict involved. If any part of the overall project requires a higher level of review, then the whole overall project will be reviewed under that higher tier, unless otherwise authorized by the Commission:

- (1) Tier 1 reviews are for projects altering 4,300 up to 15,000 square feet of P-WL2 or P-WL3 wetlands.
- (2) Tier 2 reviews are for projects altering 15,000 up to 43,560 square feet (one acre) of P-WL2 or P-WL3 wetlands not containing critically imperiled (S1) or imperiled (S2) natural communities.
- (3) Tier 3 reviews are for projects altering any area of P-WL1 wetlands, 15,000 up to 43,560 square feet (one acre) of P-WL2 or P-WL3 wetlands containing critically imperiled (S1) or imperiled (S2) natural communities, or one acre or more of P-WL2 or P-WL3 wetlands.

Alterations of P-WL1 wetlands may be eligible for Tier 1 or 2 review if the Commission determines, at the applicant's request, that the activity will have no undue adverse impact on the freshwater wetlands or other protected natural resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected natural resources.

- (4) When wetland delineation is required, the level of permit review required will be determined by the type of wetland indicated through delineation.

2. General Land Use Standards

a. Avoidance.

- (1) Projects requiring Tier 1 review must avoid alteration of wetland areas on the property to the extent feasible considering natural features, cost, existing technology and logistics based on the overall purpose of the project.
- (2) Projects requiring Tier 2 or Tier 3 review must not cause a loss in wetland area, functions and values if there is a practicable alternative to the project that would be less damaging to the environment. Each Tier 2 and Tier 3 application must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist.

- b. **Minimal Alteration.** Projects requiring Tier 1, Tier 2 or Tier 3 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project.
- c. **Water Quality.** Projects requiring Tier 1, Tier 2 or Tier 3 review must comply with applicable water quality standards; i.e., the activity will not violate any state water quality law, including those governing the classification of the State's waters. Projects that would alter wetland hydrology and could also alter stream flows or other adjacent surface waters must comply with the water quality classification standards contained in 38 M.R.S.A. §465.
- d. **Erosion Control.** Projects requiring Tier 1 or Tier 2 review must use erosion control measures to prevent sedimentation of surface waters. A 25-foot buffer strip must be maintained between the activity and any surface waters.
- e. **Compensation.** Compensation is the off-setting of a lost wetland function with a function of equal or greater value. The goal of compensation is to achieve no net loss of wetland functions and values.
 - (1) For projects requiring Tier 2 or Tier 3 review, the Commission may require compensation when it determines that a wetland alteration will cause a wetland function or functions to be lost or degraded as identified by an assessment of wetland functions and values in accordance with application requirements or by the Commission's evaluation of the project.
 - (2) The Commission may waive the requirement for a functional assessment, compensation, or both. The Commission may waive the requirement for a functional assessment if it already possesses the information necessary to determine the functions of the area proposed to be altered. The Commission may waive the requirement for compensation if it determines that any impact to wetland functions and values from the activity will be insignificant.
- f. **No Unreasonable Impact.** The following standards apply only to applications requiring Tier 3 review:
 - (1) Even if a project has no practicable alternative and the applicant has minimized the proposed alteration as much as possible, the application will be denied if the activity will have an unreasonable impact on the wetland. A project will be determined to have an "unreasonable impact" if the Commission makes one or more of the following findings:
 - (a) Existing uses. The activity will unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.
 - (b) Soil erosion. The activity will cause unreasonable erosion of soil or sediment or unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
 - (c) Harm to habitats; fisheries.

The activity will unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater or marine fisheries or other aquatic life.

In determining whether there is unreasonable harm to significant wildlife habitat, the Commission may consider proposed mitigation if that mitigation does not diminish the overall value of significant wildlife

habitat and species utilization of the habitat in the vicinity of the proposed activity and if there is no specific biological or physical feature unique to the habitat that would be adversely affected by the proposed activity.

- (d) Interference with natural water flow. The activity will unreasonably interfere with the natural flow of any surface or subsurface water.
 - (e) Flooding. The activity will unreasonably cause or increase the flooding of the alteration area or adjacent properties.
 - (f) Sand supply. If the activity is on or adjacent to a sand dune, it will unreasonably interfere with the natural supply or movement of sand within or to the sand dune system or unreasonably increase the erosion hazard to the sand dune system.
 - (g) Outstanding river segments. If the proposed activity is a crossing of any outstanding river segment as identified in Section 10.23,I, the applicant cannot demonstrate that no reasonable alternative exists which would have less adverse effect upon the natural and recreational features of the river segment.
 - (h) Dredging. If the proposed activity involves dredging, dredge spoils disposal or transporting dredge spoils by water, the applicant cannot demonstrate that the transportation route minimizes adverse impacts on the fishing industry and that the disposal site is geologically suitable.
 - (i) In determining if an activity will have an unreasonable impact, the Commission shall consider:
 - (i) The area of wetland that will be affected by the alteration and the degree to which the wetland is altered, including wetland beyond the physical boundaries of the project;
 - (ii) The functions and values provided by the wetland;
 - (iii) Any proposed compensation and the level of uncertainty regarding it; and
 - (iv) Cumulative effects of frequent minor alterations on the wetland.
- (2) Activities may not occur in, on or over any wetland of special significance containing threatened or endangered species unless the applicant demonstrates that:
- (a) The wetland alteration will not disturb the threatened or endangered species; and
 - (b) The overall project will not affect the continued use or habitation of the site by the species.
- (3) When considering whether a single activity is reasonable in relation to the direct and cumulative impacts on the resource, the Commission shall consider factors such as the degree of harm or benefit to the resource; the frequency of similar impacts; the duration of the activity and ability of the resource to recover; the proximity of the activity to protected or highly developed areas; traditional uses; the ability of the activity to perform as intended; public health or safety concerns addressed by the activity; and the type and degree of benefit from the activity (public, commercial or personal).

Q. SUBDIVISION AND LOT CREATION

This section governs the division of lots and the creation of subdivisions.

1. Counting Parcels, Lots, or Dwelling Units Under the Definition of Subdivision.

- a. **Lots Created by Dividing a Parcel.** When a parcel is divided, the land retained by the person dividing land is always counted in determining the number of lots created unless the lot retained qualifies for any of the exemptions listed in Section 10.25,Q,1,g below. This figure illustrates two examples:

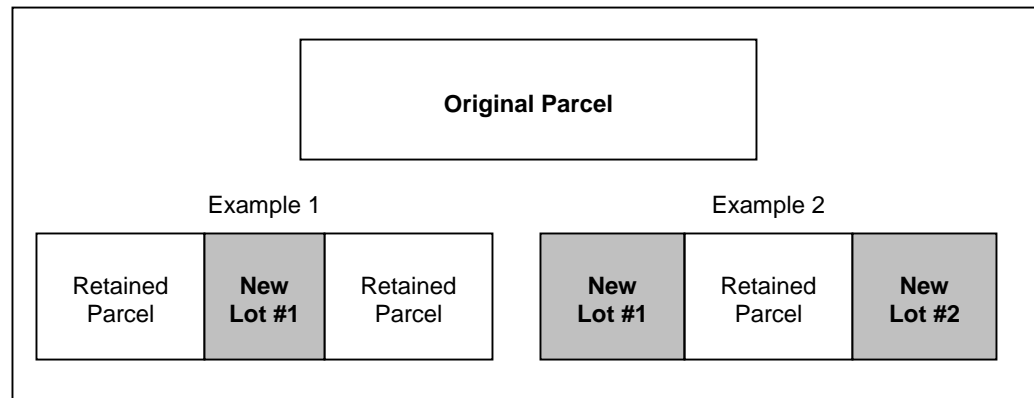


Figure 10.25,Q-1. Two examples where two new lot lines were drawn, each resulting in the creation of three parcels.

- b. **Subdivision Created by the Placement of Dwelling Units.** The placement of three or more dwelling units on a single lot within a five-year period creates a subdivision. The division of one lot into two parcels coupled with the placement of one or two dwelling units on either or both lots does not create a subdivision.
- c. **Parcels Originally Part of a Subdivision.** A lot or parcel which, when sold, leased or developed, was not part of a subdivision but subsequently became part of a subdivision by reason of another division by another landowner is counted as a lot under the subdivision definition. The Commission, however, will not require a subdivision permit be obtained for such lot, unless the intent of such transfer or development is to avoid the objectives of 12 M.R.S.A. §206-A.
- d. **Remote Rental Cabins.** In order to foster primitive recreational opportunities on large tracts of land, up to eight remote rental cabins within a single contiguous ownership larger than 5,000 acres within a township shall be allowed without subdivision review. Placement of more than eight remote rental cabins within such an ownership requires subdivision review by the Commission.
- e. **Renewal of Leases.** For the purpose of counting lots under the Commission's definition of subdivision, the renewal of a lease within a Commission approved subdivision shall not be counted as the creation of a lot. For the renewal of leases in other than Commission approved subdivisions, a lease that is renewed within two (2) years of its expiration shall not be counted as the creation of a lot. Renewal of leases in other circumstances shall be counted as the creation of a lot.
- f. **Existing parcels.** For the purposes of the definition of subdivision in 12 M.R.S.A. §682(2) and in these rules, an "existing parcel" shall include the contiguous area within one township, plantation, or town owned or leased by one person or group of persons in common ownership.

- g. **Exempt lots.** The following divisions are exempt when counting lots for purposes of subdivision, unless the intent of such transfer is to avoid the objectives of 12 M.R.S.A. §206-A:

- (1) Transfer of Lots for Forest Management, Agricultural Management or Conservation of Natural Resources.

A lot or parcel is not considered a subdivision lot if the following conditions are met:

- (a) The lot is transferred and managed solely for forest management, agricultural management or conservation of natural resources;
- (b) The lot is at least 40 acres in size;
- (c) If the lot is less than 1,000 acres in size, no portion of the lot is located within 1,320 feet of the normal high water mark of any great pond or river or within 250 feet of the upland edge of a coastal or freshwater wetland as these terms are defined in 38 M.R.S.A. §436-A;
- (d) The original parcel from which the lot was divided is divided into an aggregate of no more than 10 lots within any 5-year period; and
- (e) When 3 to 10 lots each containing at least 40 acres in size are created within any 5-year period, a plan is recorded in accordance with 12 M.R.S.A §685-B(6-A). Any subsequent division of a lot created from the original parcel within 10 years of the recording of the plan in the registry of deeds or any structural development unrelated to forest management, agricultural management or conservation creates a subdivision and may not occur without prior commission approval. 12 M.R.S.A §682-B(4).

- (2) Retained Lots.

A lot is not counted as a lot for the purposes of subdivision if it is retained by the person dividing the land, and for a period of at least 5 years:

- (a) is retained and not sold, platted, leased, conveyed or further divided; and
- (b) is used solely for forest or agricultural management activities, or natural resource conservation purposes.

- (3) Transfers to an Abutter and Contiguous Lots.

A lot transferred to an abutting owner of land is not counted as a lot for the purposes of subdivision. Where a lot is transferred to an abutter, or two or more contiguous lots are held by one person, the contiguous lots are considered merged for regulatory purposes except for:

- (a) lots that are part of a subdivision approved by the Commission;
- (b) a land division certified by the Commission as qualifying under 12 M.R.S.A. §682-B; or
- (c) as provided in Section 10.11;

- (4) Divisions by Inheritance, Court Order, or Gifts.

Divisions of land accomplished solely by inheritance, or by court order, to a person related to the donor by blood, marriage, or adoption are not counted as lots for the purposes of this subsection.

A division of land accomplished by bona fide gift, without any consideration paid or received, to a spouse, parent, grandparent, child, grandchild or sibling of the donor of the lot or parcel does not create a subdivision lot if the donor has owned the lot or parcel for a continuous period of 5 years immediately preceding

the division by gift and the lot or parcel is not further divided or transferred within 5 years from the date of division. 12 M.R.S.A. §682-B(1)

(5) Conservation Lots.

A lot or parcel transferred to a nonprofit, tax-exempt nature conservation organization qualifying under the United States Internal Revenue Code, Section 501(c)(3) is not considered a subdivision lot if the following conditions are met:

- (a) For a period of at least 20 years following the transfer, the lot or parcel must be limited by deed restriction or conservation easement for the protection of wildlife habitat or ecologically sensitive areas or for public outdoor recreation; and
- (b) The lot or parcel is not further divided or transferred except to another qualifying nonprofit, tax-exempt nature conservation organization or governmental entity. 12 M.R.S.A. §682-B(3)

(6) Transfer to Governmental Entity.

A lot or parcel transferred to a municipality or county of the State, the State or an agency of the State is not considered a subdivision lot if the following conditions are met:

- (a) The lot or parcel is held by the governmental entity for the conservation and protection of natural resources, public outdoor recreation or other bona fide public purposes and is not further sold or divided for a period of 20 years following the date of transfer; and
- (b) At the time of transfer the transferee provides written notice to the commission of transfer of the lot or parcel, including certification that the lot or parcel qualifies for exemption under this subsection. 12 M.R.S.A. §682-B(2)

(7) Large Lots Managed for Forest or Agricultural Management Activities or Conservation.

A lot transferred or retained following transfer containing at least 5,000 acres is not counted as a lot for the purposes of this subsection, provided the lot is managed solely for the purposes of forest or agricultural management activities or conservation and the lot is not further divided for a period of at least 5 years. Nothing in this paragraph, however, shall be construed to prohibit public outdoor recreation on the lot.

(8) Unauthorized Subdivision Lots in Existence For at Least 20 Years.

A lot or parcel that when sold or leased created a subdivision requiring a permit under this chapter is not considered a subdivision lot and is exempt from the permit requirement if the permit has not been obtained and the subdivision has been in existence for 20 or more years. A lot or parcel is considered a subdivision lot and is not exempt under this subsection if:

- (a) Approval of the subdivision under 12 M.R.S.A. §685-B was denied by the Commission and record of the Commission's decision was recorded in the appropriate registry of deeds;
- (b) A building permit for the lot or parcel was denied by the Commission under 12 M.R.S.A. §685-B and record of the Commission's decision was recorded in the appropriate registry of deeds;
- (c) The Commission has filed a notice of violation of 12 M.R.S.A. §685-B with respect to the subdivision in the appropriate registry of deeds; or

- (d) The lot or parcel has been the subject of an enforcement action or order and record of that action or order was recorded in the appropriate registry of deeds. 12 M.R.S.A §682-B(5)

2. Level 2 Subdivision Identification Criteria. Any subdivision that meets all of the criteria below is considered a level 2 subdivision. A level 2 subdivision:

- a. is a division within any 5-year period of an existing parcel of land within a single contiguous ownership into (a) 5 or fewer lots or 5 or fewer dwelling units or (b) 6 to 15 lots or 6 to 15 dwelling units that meet the requirements of cluster development, Section 10.25,R;
- b. occupies an aggregate land area of (a) 20 acres or less or (b) 30 acres or less within a subdivision that meets the requirements of cluster development, Section 10.25,R;
- c. is located within 1,000 feet of a public roadway;
- d. is located no more than one mile by road from existing compatible development;
- e. is located wholly on land within an M-GN subdistrict or within a development subdistrict where level 2 subdivisions are allowed, except that up to 10 percent of the aggregate land area may be designated or identified as a stream channel or wetland at the time of the filing of a subdivision application; and
- f. is located wholly in a township, plantation or town within the jurisdiction of the Commission listed in Table 10.25,Q-1, below.

For purposes of Section 10.25,Q,2, “aggregate land area” includes lots or parcels to be offered and all roads and other infrastructure associated with the subdivision, but excludes open space.

Aroostook	Connor Twp	Penobscot	Argyle Twp
	Cyr Plt		Greenfield Twp
	Garfield Plt		Grindstone Twp
	Hamlin, Town of		Mattamiscotis Twp
	Nashville Plt		T3 Indian Purchase Twp
	Saint John Plt		T4 Indian Purchase Twp
	Sinclair Twp		TA R7 WELS
	T11 R4 WELS	Piscataquis	Beaver Cove, Town of
Franklin	T17 R3 WELS		Elliottsville Twp
	T17 R5 WELS		Harfords Point Twp
	Coplin Plt		Lily Bay Twp
	Freeman Twp		Moosehead Junction Twp
Hancock	Lang Twp	Somerset	T1 R9 WELS
	Salem Twp		Dennistown Plt
	Wyman Twp		Lexington Twp
Oxford	T32 MD		Long Pond Twp
	Albany Twp		Parlin Pond Twp
	Lower Cupsuptic Twp		Rockwood Strip T1 R1 NBKP
	Mason Twp	Washington	Spring Lake Twp
	Milton Twp		Tomhegan Twp
			Edmunds Twp
			Trescott Twp

Table 10.25,Q-1. Towns, plantations and townships where Level 2 subdivisions are permitted.

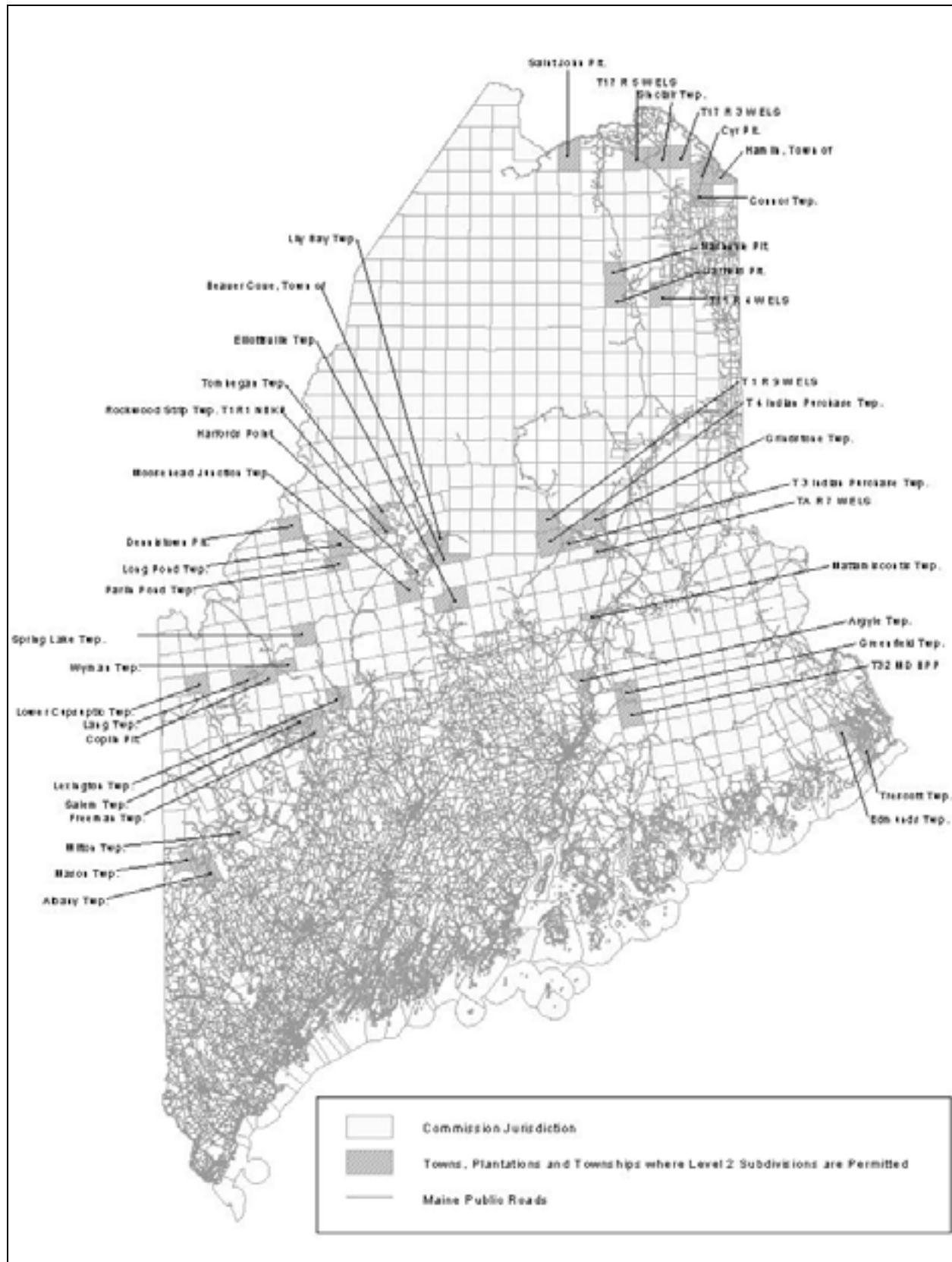


Figure 10.25,Q-2. Towns, plantations and townships where Level 2 subdivisions are permitted.

3. Layout and Design for all Subdivisions.

- a. Subdivisions shall be designed to harmoniously fit into the natural environment and shall cause no undue adverse impact on existing surrounding uses. When determining “harmonious fit”, the Commission shall consider the existing character of the surrounding area, potential for conflict with surrounding uses, proposed driveway and roadway locations, and proposed lot sizes, among other factors.
- b. Subdivisions shall be designed to avoid the linear placement of lots and driveways along roadways or shorelines.

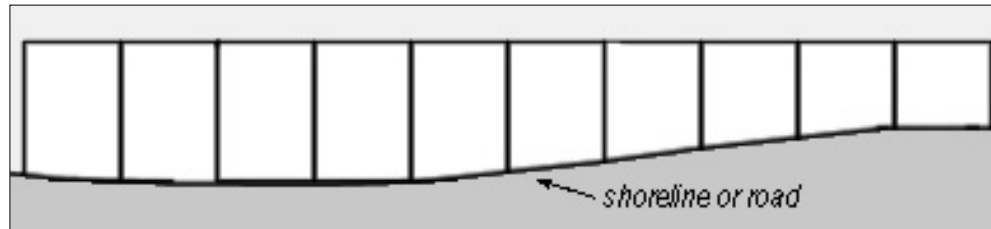


Figure 10.25,Q-3. Linear placement of lots along roadways or shorelines.

To the extent practicable, subdivision lots shall be placed so as to create a distinct community center or expand an existing neighborhood, as long as the expansion is no further than 1,320 feet from the center of the existing neighborhood.

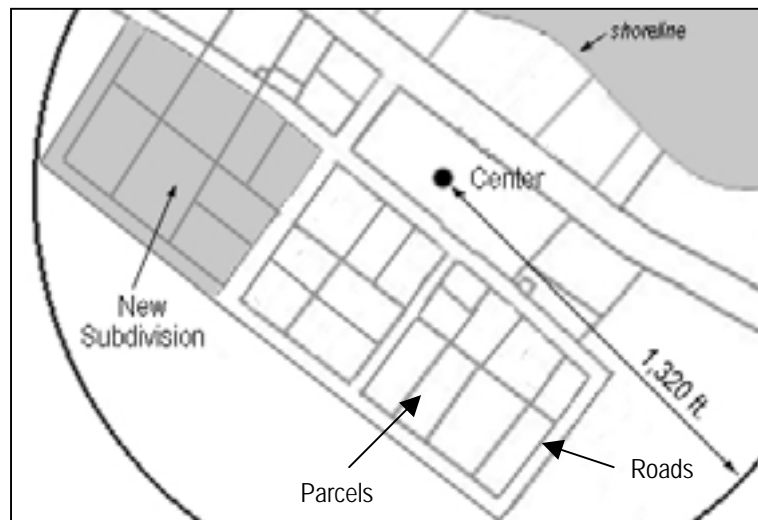


Figure 10.25,Q-4. Placement of subdivision lots within 1,320 feet of an existing neighborhood center.

Where such development is not practicable, lots shall be configured in such a manner so that groups of lots are separated by at least 500 feet of undeveloped land and the lots within a group do not extend more than 1,320 feet along any roadway or shoreline.

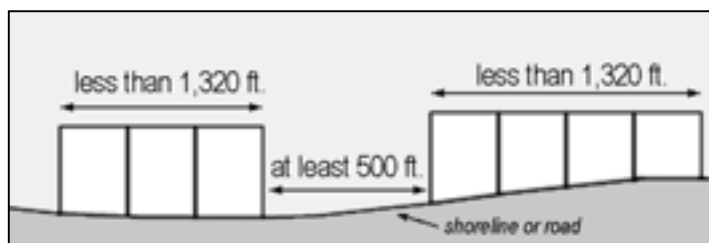


Figure 10.25,Q-5. Grouping of subdivision lots along a roadway or shoreline.

- c. To the extent practicable, subdivisions shall be designed to reduce the number of driveway access points onto roadways through the utilization of shared driveways and interior roads. Notwithstanding Section 10.26,C, the Commission may reduce the minimum road frontage for individual lots within subdivisions with shared driveways by up to 50 percent, as long as the Commission finds that reducing road frontage will not adversely affect resources or existing uses or that reducing road frontage will prevent the loss of important natural features.
- d. Building envelopes shall be marked and identified on the subdivision plat for each proposed lot in accordance with the following requirements:
 - (1) Building envelopes shall identify all areas within each subdivision lot where structural development may occur;
 - (2) Building envelopes shall be arranged to conform with the minimum water body, road and property line setback and maximum lot coverage requirements, as provided in Section 10.26; and
 - (3) Where practicable, building envelopes shall be arranged so as to avoid the placement of structures and driveways along ridge lines, on agricultural land, wetlands, slopes greater than 15%, or any other important topographic and natural features.
- e. Subdivisions proposed with mixed residential, commercial, or civic uses shall also meet the following requirements:
 - (1) Commercial uses must fit the size, scale and intensity of the surrounding residential uses; and
 - (2) A combination of residential, commercial, or civic uses on a single lot is allowed only if the most restrictive dimensional requirements, as provided in Section 10.26, are met and provided that the commercial or civic uses are otherwise compatible with residential uses.
- f. All subdivision and lot boundary corners and angle points shall be marked by suitable, permanent monumentation as required by the Maine Board of Registered Land Surveyors.
- g. Shorefront subdivisions with proposed permanent docks, trailered ramps, hand-carry launches or water-access ways shall comply with the requirements of Section 10.27,L,2.

4. Spaghetti-lots.

- a. A person may not divide any parcel of land in such a way as to create a spaghetti-lot. This prohibition does not apply to utility or transportation rights-of-ways, government purchases, or a parcel of land that the Commission determines has significant public benefit and cannot be configured in any other way in order to provide that benefit. 12 M.R.S.A. §682-A

5. Subdivision Redistricting Considerations.

Subdivisions are allowed only in appropriate subdistricts, as designated in Sub-Chapter II. However, the Commission may approve subdivisions which include land area designated as open space within subdistricts where subdivision is otherwise prohibited, provided the designated land area meets the requirements of Section 10.25,S.

6. Subdivision Filing with Registry of Deeds and Sale of Lots.

a. Filing requirements.

Following the approval of any subdivision by the Commission, the applicant must file the subdivision plat signed by the Commission's Director with the County Registry of Deeds where the real estate is located.

A registrar of deeds shall not record a copy of conditions or any plat or plan purporting to subdivide real estate located within the unorganized and deorganized lands of the State, unless the Commission's approval is evidenced thereon. 12 M.R.S.A §685-B(6)

b. Certificates of Compliance.

The sale of lots in any subdivision approved by the Commission may not proceed until a certificate of compliance has been issued. A certificate of compliance requires that, among other things, proposed deeds and plats be reviewed and approved by the Commission to ensure that permit conditions have been fulfilled. 12 M.R.S.A. §685-B(8)

7. Recording of Large Lot Land Divisions.

a. When 3 to 10 lots each containing at least 40 acres are created within a 5-year period and are located more than 1,320 feet from the normal high water mark of any great pond or river and more than 250 feet from the upland edge of a coastal or freshwater wetland as those terms are defined in 38 M.R.S.A. §436-A, a plan showing the division of the original parcel must be filed by the person creating the 3rd lot with the Commission within 60 days of the creation of that lot. The plan must state that the lots may be used only for forest management, agricultural management or conservation of natural resources. A "Guide to Certification of Plans for Large Lot Land Divisions" is available from the Commission that details submission requirements.

b. The Commission shall determine whether the plan qualifies under 12 M.R.S.A §682-B, ordinarily within 15 days of receipt of plan.

c. A copy of the certified plan must be filed, within 30 days of certification by the Commission, with the State Tax Assessor and the appropriate registry of deeds in the county in which the land is located. A register of deeds may not record any plan depicting these lots unless the Commission's certification that the division qualifies under 12 M.R.S.A §685-B is evidenced on the plan. 12 M.R.S.A. §685-B(6-A)

Any subsequent division of a lot created from the original parcel within 10 years of the recording of the plan in the registry of deeds is considered a subdivision. 12 M.R.S.A §682-B

R. CLUSTER DEVELOPMENT

1. Applicability

- a. The cluster development standards set forth below must be met for all subdivisions located within 250 feet of the normal high water mark of a Management Class 4 or 5 lake and for all level 2 subdivisions comprised of more than 5 lots or more than 5 dwelling units.
- b. Other subdivisions located on land that could be developed under normal applicable standards may also be clustered if the subdivisions provide for the efficient use of land and the protection of a significant amount of open space, in accordance with the standards of Section 10.25,R and Section 10.25,S.
- c. The cluster development standards may be waived for subdivisions located within 250 feet of the normal high water mark of a Management Class 4 or 5 lake, where the Commission finds that cluster development is clearly inappropriate due to physical site limitations. Such site limitations may include, without limitation, the presence of soils that are unsuitable for high density development or the size and configuration of a parcel that does not lend itself to clustering.

2. Cluster Development Standards.

- a. Cluster subdivisions shall provide for a reasonable balance between development and conservation. Specifically, cluster subdivisions shall reserve no more than 50% of net developable land for development and, within shorefront subdivisions, shall reserve no more than 50% of net developable shore frontage for development.
 - (1) For the purposes of this section, “net developable land” is the area of a parcel which, as determined by the Commission, is suitable for development. The area shall be calculated by subtracting the following from the total acreage of the parcel:
 - (a) Portions of the parcel subject to rights-of-way and easements for vehicular traffic; and
 - (b) Unbuildable land which includes, without limitation, land that has a low soil potential rating, in accordance with Section 10.25,G, or contains sensitive areas such as slopes exceeding 15%, water bodies or wetlands.
 - (2) For the purposes of this section, “net developable shorefront” is land that:
 - (a) Meets the minimum water body setback requirements of Section 10.26,D;
 - (b) Does not have a low soil potential rating, in accordance with Section 10.25,G; and
 - (c) Contains land area at least 40,000 contiguous square feet in size that is not comprised of sensitive areas such as slopes exceeding 15%, water bodies or wetlands.

- b. Cluster subdivisions shall be designed to protect developable land as open space through (1) clusters of dwellings on commonly-owned land; (2) creation of individual lots with reduced dimensional requirements, reduced road frontage or, within shorefront subdivisions, reduced shore frontage as permitted under these rules; or (3) a decrease in the number of individual lots that meet dimensional requirements.

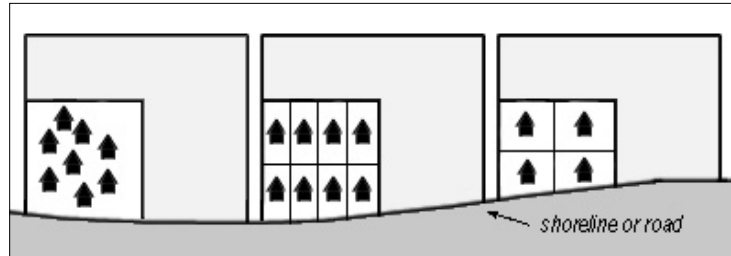


Figure 10.25,R-1. From left to right, (1) clustering on a commonly-owned parcel, (2) clustering on individual parcels with reduced lot size and frontage, and (3) clustering on individual parcels without reduced lot size or frontage.

- c. Open space within cluster subdivisions shall be preserved and maintained in accordance with Section 10.25,S.
- d. The Commission may reduce dimensional requirements for individual dwellings or lots in a cluster development, provided that, in the aggregate, dimensional requirements are met within the development.
- e. Notwithstanding Section 10.25,R,2,d, the Commission may waive the provision that dimensional requirements for individual dwellings or lots in a cluster development be met, in the aggregate, where the following conditions are satisfied:
- (1) Dimensional requirements, in the aggregate, are not waived by more than 50%;
 - (2) site conditions are suitable for more concentrated development on some portions of a site and such concentrated development will not adversely affect resources; and
 - (3) the specific benefits afforded by the cluster approach will prevent the loss of or enhance the conservation of important natural features.
- f. No individual lot or dwelling unit for which road frontage has been reduced shall have direct vehicular access onto an existing roadway, unless the individual lot or dwelling unit uses a shared driveway.

S. OPEN SPACE

The standards set forth below must be met for all cluster subdivisions and other land area designated as open space.

1. **Preservation and Maintenance of Open Space.** Open space may be owned, preserved and maintained as required by this section, by any of the following mechanisms or combinations thereof, listed in order of preference, upon approval by the Commission:
 - a. Conveyance of open space to a qualified holder, as defined under Section 10.25,S,2.
 - b. Dedication of development rights of open space to a qualified holder, as defined under Section 10.25,S,2 with ownership and maintenance remaining with the property owner or a lot owners association.
 - c. Common ownership of open space by a lot owners association which prevents future structural development and subsequent subdivision of open space and assumes full responsibility for its maintenance.
 - d. Any other mechanism that fully provides for the permanent protection or conservation of open space and that is acceptable to the Commission.
2. **Qualified Holders.** The following entities are qualified to own, preserve and maintain open space:
 - a. “A governmental body empowered to hold an interest in real property under the laws of this State or the United States; or
 - b. A nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality or preserving the historical, architectural, archaeological or cultural aspects of real property.” 33 M.R.S.A. §476, sub-§2
3. Open space may be usable for low-intensity non-commercial recreation or for purposes intended to conserve land and preserve important natural features of the site. Uses within the open space may be limited or controlled by the Commission at the time of approval, as necessary, to protect natural resources and adjacent land uses. Specifically, open space lots are subject to subdivision and other permit conditions prohibiting residential, commercial, industrial or other structures and uses.
4. If any or all of the open space is to be reserved for common ownership by the residents of the subdivision, the bylaws of the proposed lot owners association shall specify responsibilities and methods for maintaining the open space and shall prohibit all residential, commercial, industrial or other structures and uses.
5. Open space shall be dedicated as a separate lot of record with no further subdivision or conversion of use of that lot allowed. Such lot shall be shown on the subdivision plat with a notation thereof to indicate that no further subdivision or conversion of use is allowed.